

## **REMARKS**

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1-20 are pending.

Claims 1-3, 7-13, 17-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by Dail. Applicant respectfully traverses this art grounds of rejection.

Dail discloses a method and apparatus enabling synchronous transfer mode and packet mode access for multiple services on a broadband communication network. Dail discloses a method of adapting to required bandwidth changes for STM and ATM communication by efficiently allocating bandwidth. Dail describes several embodiments of achieving this efficient allocation of bandwidth, for example, arranging unused timeslots in an STM or ATM call closest to the beginning of a frame (See Col. 3 Lines 57-64). Dail further goes on to disclose how this method and similar time slot allocation methods can be applied to upstream and downstream communications.

The Examiner states that Dail recognizes the need to "allow the subscriber to dynamically allocate bandwidth to new service requirements." (See Office Action dated December 18, 2003). Applicant respectfully disagrees.

Dail discloses a method of automated bandwidth allocation, attempting to optimize unused time slots for STM and ATM calls. This is distinct from a

provision which enables a user or a subscriber to dynamically allocate a distribution channel as recited in the claimed invention. Dail teaches a response to a subscriber communication request such that a bandwidth controller would handle the allocation of more bandwidth in response to such a request (Col. 17, lines 47-60, FIG. 14.) – not the allocation of distribution channels for drop points.

Therefore, Dail does not disclose or suggest “selectively changing an allocation of distribution channels for said plurality of drop-points in accordance with said subscriber provisioning selection.” as recited in Claim 1 (Emphasis added).

Further, Dail does not disclose or suggest “means for selectively changing an allocation of distribution channels for said plurality of drop-points in accordance with said subscriber provisioning selection.” as recited in independent Claim 11 (Emphasis added).

Therefore, Applicant respectfully submits that Dail does not anticipate claims 1 and 11. As such, the claims 2-3, 7-8, 12-13, and 17-20, dependent upon independent claims 1 and 11, respectively, are likewise allowable over the cited references at least for the reasons given above with respect to the independent claims 1 and 11.

Applicant respectfully requests that the Examiner withdraw this art grounds of rejection.

Claims 5 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Dail as applied to Claims 1 and 11, and further in view of Daniel. Applicant respectfully traverses this art grounds of rejection.

Applicant respectfully submits that even a cursory review of Daniel indicates Daniel fails to overcome the deficiencies of Dail with respect to independent claims 1 and 11. As such, Dail in view of Daniel fails to render independent claims 1 and 11 obvious to one skilled in the art.

As such, claims 5 and 15, dependent upon independent claims 1 and 11, respectfully, are likewise allowable over the cited references at least for the reasons given above with respect to independent claims 1 and 11.

Applicant respectfully requests that the Examiner withdraw this art grounds of rejection.

Claims 6 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Dail as applied to claims 1 and 11, and further in view of Applicant Admitted prior art. Applicant respectfully traverses this art grounds of rejection.

Applicant respectfully submits that the Admitted prior art fails to overcome the deficiencies of Dail with respect to independent claims 1 and 11. As such, Dail, in view of the Admitted prior art, fails to render independent claims 1 and 11 obvious to one skilled in the art.

As such, claims 6 and 16, dependent upon independent claims 1 and 11, respectfully, are likewise allowable over the cited references at least for the reasons given above with respect to independent claims 1 and 11.

Applicant respectfully requests that the Examiner withdraw this art grounds of rejection.

### **CONCLUSION**

Prompt and favorable consideration of this Reply is respectfully requested. All of the stated grounds of rejection have been properly traversed, accommodated, and/or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number listed below.

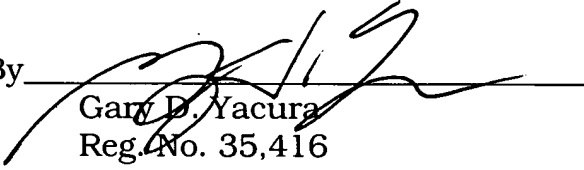
Applicant also requests that the Examiner provide Applicant with an indication of his favorable receipt of Applicant's position stated above.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Very truly yours,

HARNESS, DICKEY & PIERCE, PLC

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